

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**HOWARD LEVERN SNIDER,**

**Defendant.**

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**CASE NO. 8:03CR58**

**ORDER**

This matter is before the Court on the Defendant's motion to compel and for hearing (Filing No. 64).

On July 22, 2003, the Defendant was sentenced. He now asks that the Court compel the United States Attorney to file a motion for downward departure based on substantial assistance. Criminal Rule of Procedure 35(b)(1) states that the government, if it files a motion based on substantial assistance, must do so within one year of sentencing. The Defendant has not alleged that his case falls under Rule 35(b)(2), in which case the government would have an additional period of time to file a motion. Furthermore, the plea agreement, plea petition, and plea colloquy made it clear to the Defendant that the decision whether to file such a motion is within the government's discretion. For these reasons, the motion is denied.

IT IS ORDERED that the Defendant's motion to compel and for hearing (Filing No. 64) is denied.

DATED this 5<sup>th</sup> day of July, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge